IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Criminal Application No. 1714 of 2007.

Shahida Shamiullah Khan

Vs.

State of Maharashtra

Office Notes, Office Memoranda of Coram, appearances, Court orders or directions and Registrar's orders

Court's or Judge's orders

Shri N. W. Sambre Adv. for applicant.
Shri. Y. B. Mandpe APP for State.

CORAM: C. L. PANGARKAR J.
Dated: 28th June, 2007.

This is an application under Section 438 of Criminal Procedure Code.

One Mithilesh Kumari and her brother-in-laws are the owners of plot No. 175 of Mankapur. It is alleged that three

persons were living together in the said house. For some reason they were required to leave that house and go back to Uttar Pradesh. In 1998 they came back and found the present applicant was in possession of the property. They questioned as to how she was in possession and that were their old belongings. Applicant refused to vacate the premises. Therefore, Mithilesh Kumari and others went back to Uttar Pradesh. Subsequently, they again came back. Still it was found that applicant had not vacated the premises. They, therefore, executed the power of attorney in favour of one Dilawar Khan. Dilawar Khan made an enquiry and found that the plot was already regularised in the name of the present applicant in N. I. T. on the basis of

certain documents said to have been executed by Mithilesh Kumari. Dilawar submitted a report to the police that the regularisation proceedings which were taken up with N. I. T. were based on forged documents and she got the property recorded in her name. Since he lodged the report to the police, applicant apprehends arrest and prays for anticipatory bail and the State opposes the application.

Learned counsel for the applicant submitted that since 1997 applicant is in possession of the property. Mithilesh Kumari and other though had come to Nagpur they never took any action whatsoever against the applicant and this itself would go to show that Mithilesh Kumari had executed a power of attorney in favour of applicant and the documents

are forged.

Learned counsel for the State on the other hand submitted that documents that were submitted to the N. I. T. were forged one and xerox copies of those documents have already been obtained and they would clearly go to show that the signatures on power of attorney executed in favour of the applicant and now in favour of complainant totally differ. He submitted that this would require investigation and that cannot be done unless the applicant is interrogated and taken into custody.

I have gone through the Case Diary placed before me. The signatures made on the power of attorney executed in favour of the complainant and present applicant are totally different. Even the

manner in which the words used for writing the name Mithilesh Kumari totally differs. It is, therefore, apparent that signatures on both these documents have been put by different person and they are not put by same person. It is, therefore, very clear that the matter certainly needs proper investigation. It is a matter of common knowledge that the cases of people grabbing the property of others on such forged documents are on increase and in such circumstances I find that it is not proper to grant anticipatory bail to the applicant. Application, therefore, stands rejected.

JUDGE

svk